

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

AUG -2 2011

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

IN RE DOMINICK B.)
) 2 CA-JV 2011-0039
) DEPARTMENT B
)
) MEMORANDUM DECISION
) Not for Publication
) Rule 28, Rules of Civil
) Appellate Procedure
)
)
)

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. 19172101

Honorable Danelle B. Liwski, Judge

Honorable Hector E. Campoy, Judge

AFFIRMED

Robert J. Hirsh, Pima County Public Defender
By Susan C. L. Kelly

Tucson
Attorneys for Minor

ESPINOSA, Judge.

¶1 The juvenile court adjudicated appellant Dominick B. delinquent after then-sixteen-year-old Dominick admitted having committed unlawful use of a means of transportation as alleged in a March 15, 2011 juvenile petition. The court committed him to the Arizona Department of Juvenile Corrections (ADJC) for a minimum period of thirty days and recommended that he be admitted into the Recovery Program at ADJC.

¶2 Dominick’s counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999). See also *In re Maricopa County Juv. Action No. JV-117258*, 163 Ariz. 484, 788 P.2d 1235 (App. 1989). Counsel asks this court to consider, as an “arguable issue,” whether the juvenile court abused its discretion when it revoked Dominick’s probation and ordered him committed to the ADJC.

¶3 The juvenile court “has broad discretion in determining the proper disposition of a delinquent juvenile” and, absent an abuse of that discretion, we will not disturb the court’s order. *In re Themika M.*, 206 Ariz. 553, ¶ 5, 81 P.3d 344, 345 (App. 2003). In the analogous context of adult sentencing, a court abuses its discretion when its decision is arbitrary or capricious or it fails to adequately investigate facts relevant to sentencing. *State v. Stotts*, 144 Ariz. 72, 87, 695 P.2d 1110, 1125 (1985). To determine whether ADJC commitment is the proper disposition for a delinquent juvenile, a court also must consider guidelines for commitment promulgated by the Arizona Supreme Court. See *In re Melissa K.*, 197 Ariz. 491, ¶ 14, 4 P.3d 1034, 1038 (App. 2000); see also A.R.S. § 8-246(C) (requiring promulgation of commitment guidelines); Ariz. Code of Jud. Admin. § 6-304(C) (Commitment Guidelines). Those guidelines require the court to consider, inter alia, “the nature of the offense,” the “risk the juvenile poses to the community,” and “whether appropriate less restrictive alternatives to commitment exist within the community.” Ariz. Code of Jud. Admin. § 6-304(C)(1)(c).

¶4 The record establishes the juvenile court appropriately exercised its discretion. Dominick admitted having taken his father’s truck without permission,

although he claimed that he had intended to return it. *See* A.R.S. § 13-1803(A)(1). Dominick previously admitted committing two burglaries and to possessing marijuana. Moreover, he did not successfully complete probation and did not respond to drug treatment.

¶5 We have searched the record but have found no reversible error. The record supports the juvenile court's findings that Dominick's admission was knowing, voluntary, and intelligent, and that he provided an adequate factual basis to support the admission. Additionally, as we have stated, the court did not abuse its discretion when it committed Dominick to ADJC for a minimum of thirty days. Accordingly, the court's orders adjudicating Dominick delinquent and committing him to ADJC are affirmed.

/s/ Philip G. Espinosa
PHILIP G. ESPINOSA, Judge

CONCURRING:

/s/ Garye L. Vásquez
GARYE L. VÁSQUEZ, Presiding Judge

/s/ Peter J. Eckerstrom
PETER J. ECKERSTROM, Judge